

Circular

EIOPA consults on Guidelines issued under the Insurance Distribution Directive on Complex Insurance-Based Investment Products

The European Insurance and Occupational Pensions Authority (“EIOPA”) has launched a consultation process on Guidelines on complex Insurance-Based Investment Products (IBIPs) that incorporate a structure that makes it difficult for the customer to understand the risks involved.

The Guidelines are developed in terms of Articles 30(7) and (8) of the Insurance Distribution Directive (“IDD”).

Background

Article 30(1) and (2) of the IDD require an assessment of the suitability or appropriateness of an IBIP for the customer by the insurance intermediary or insurance undertaking as part of the sales process. Article 30(3) permits Member States to derogate from these obligations, thus allowing the distribution of IBIPs to be carried out on an execution-only basis, where all of the conditions listed under said article are satisfied. Whilst a final decision still needs to be taken, it is our intention to exercise this derogation. It is imperative to note that the demands and needs test required by article 20(1) of the IDD should still be carried out.

The Guidelines focus on one of the conditions for execution-only sales of IBIPs, specified in article 30(a)(i) of the IDD, by principally addressing the identification of contractual structures or features which can make it difficult for the customer to understand the risks involved in the IBIP. Only those IBIPs providing investment exposure to the financial instruments deemed non-complex under MiFID II for which the risks can be readily understood by the customer are able to be sold via execution-only.

The Authority would recommend that the Guidelines are read concurrently with the [Technical Advice](#) on possible delegated acts under the IDD on Execution-Only Sales, submitted by EIOPA to the Commission on the 1 February 2017, in order to understand the complete set of requirements that determine whether an IBIP is complex or non-complex.

Consultation Process

The Consultation Paper and the template for comments can be viewed on the [EIOPA website](#).

The consultation period ends on the **28 April 2017** at 18.00 CET. Comments are to be submitted to EIOPA by email on CP-17-001@eiopa.europa.eu. EIOPA has advised that comments submitted after the deadline or not submitted in the provided template will not be assessed. EIOPA will make all comments available on its website, except where respondents specifically request that their

comments remain confidential. It is appreciated if any feedback provided to EIOPA is copied to the Malta Financial Services Authority – Conduct Supervisory Unit via email on finpro@mfsa.com.mt .

EIOPA will consider the responses received to the Consultation Paper and expects to publish a final report on the consultation and to issue the final Guidelines by the 23 August 2017.

Contacts

Should you have any queries on the above, please do not hesitate to contact Dr Sarah Pulis, Senior Manager – Conduct Supervisory Unit (SPulis@mfsa.com.mt) or Ms Erika Bajada, Analyst – Conduct Supervisory Unit (EBajada@mfsa.com.mt).

Communications Unit
Malta Financial Services Authority
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